

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ARISTA RECORDS LLC; ATLANTIC
RECORDING CORPORATION; ARISTA
MUSIC, fka BMG MUSIC; CAPITOL
RECORDS LLC fka CAPITOL RECORDS,
INC.; ELEKTRA ENTERTAINMENT
GROUP INC.; INTERSCOPE RECORDS;
LAFACE RECORDS LLC; MOTOWN
RECORD COMPANY, L.P.; PRIORITY
RECORDS LLC; SONY MUSIC
ENTERTAINMENT, fka SONY BMG
MUSIC ENTERTAINMENT; UMG
RECORDINGS, INC.; VIRGIN RECORDS
AMERICA, INC.; and WARNER BROS.
RECORDS INC.,

Plaintiffs,

v.

LIME WIRE LLC; LIME GROUP LLC;
MARK GORTON; and M.J.G. LIME WIRE
FAMILY LIMITED PARTNERSHIP,

Defendants.

06 Civ. 05936 (KMW)
ECF CASE

**PLAINTIFFS' FINAL LIST OF SOUND RECORDINGS
PURSUANT TO APRIL 4, 2011 ORDER**

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Date: April 18, 2011

Pursuant to this Court's Opinion and Order dated April 4, 2011 (Dkt. No. 665), Plaintiffs submit their final list of sound recordings at issue consisting of Schedules A and B. *See* Exs. A-1, A-2, & B. Schedule A contains a list of all of the post-1972 works subject to the Copyright Act for which Plaintiffs seek statutory damages. *See* Exs. A-1 & A-2. Schedule B contains a list of all of the pre-1972 works for which Plaintiffs seek damages (including punitive damages) under state law. *See* Ex. B. Schedule A contains new information incorporated pursuant to this Court's recent Orders.

The April 4, 2011 Order directs Plaintiffs to "state on their final song list . . . which sound recordings were issued as individual tracks during the same time period that that sound recording was infringed on the LimeWire system." Order at 8. Plaintiffs have divided Schedule A into two lists, one entitled "Individual Schedule A-1" (Ex. A-1) and one entitled "Album Schedule A-2" (Ex. A-2). Plaintiffs issued the tracks listed on the "Individual Schedule A-1" list (Ex. A-1) as individual tracks during the same time period that they were infringed on the LimeWire system.

Defendants contend that 1,320 of the works on Schedule A should be omitted pursuant to the Court's Order interpreting 17 U.S.C. § 412 (Dkt. No. 646), and this Court's Order holding that Plaintiffs may not seek actual damages for any work for which statutory damages are deemed unavailable as a result of this Court's § 412 Order (Dkt. No. 682). Plaintiffs do not agree that Defendants have established that § 412, as construed by the Court, bars statutory damages for all these works. We have indicated with an asterisk in the column headed "Alleged 412" those works that Defendants contend are subject to § 412. Defendants do not contend that § 412 affects Plaintiffs' right to recover statutory damages for any of the other works on Schedule A. *See* Ex. C (email from T. Mundiya to M. LeMoine).

We will continue to work with Defendants to try to reach a stipulation regarding the status of the works on Schedule A, so as to streamline the presentation of evidence at trial.

Dated: April 18, 2011

Respectfully submitted

/s/Melinda E. LeMoine
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